



THE CITY OF NEW YORK
LAW DEPARTMENT

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November 17, 2016

VIA ECF

Honorable Alison J. Nathan
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Christine Alberto v. Michael Morales, et al., 15 CV 9449 (AJN)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, representing defendant City of New York (hereinafter “City”) in the above-referenced matter. I write on behalf of Defendant City to respectfully request an extension of time from November 17, 2016 to and including December 19, 2016 to submit a motion to dismiss pursuant to FED. R. CIV. P. 12(b)(6). Plaintiff’s attorney, Montell Figgins, Esq., consents to this request.

By way of background, Plaintiff alleges, *inter alia*, that she was falsely arrested by members of the New York City Police Department (“NYPD”) on October 22, 2014 and November 10, 2014, on robbery charges, after she was identified as the perpetrator by a complaining witness and warrants were issued for her arrest. (Doc. No. 61). Plaintiff also brings a claim against the City of New York for municipal liability. (Doc. No. 61). In addition to the City, Plaintiff purports to name Detectives Nicholas Estavillo, Conrad Perry, and Michael Morales as defendants herein.¹

This action was filed on December 2, 2015, and in light of the allegations, was governed by Local Civil Rule 83.10 (formerly the Plan for Certain § 1983 Cases Against the City

¹ Upon information and belief, none of these individuals have been served with the First Amended Complaint.

of New York) (hereinafter “Section 1983 Plan”). Pursuant to the Section 1983 Plan, the parties exchanged limited discovery and attended mediation. Mediation was unsuccessful, and, accordingly, the parties requested an initial conference. (Doc. No. 46).

The parties appeared for an initial conference on September 23, 2016, wherein Defendant indicated it wished to make an early motion for summary judgment, given that limited discovery under the Section 1983 Plan revealed that each of the arrests complained of in this Complaint were made pursuant to valid arrest warrants. Plaintiff requested, and was granted, leave to amend the Complaint. (Doc. No. 52). Plaintiff filed an Amended Complaint on November 3, 2016. (Doc. No. 61). Defendant submits that the Amended Complaint fails to state a claim for the same reasons as the original Complaint. Accordingly, Defendant City intends to move to dismiss the Amended Complaint in its entirety.

In light of the above, Defendant City respectfully requests an extension of time from November 17, 2016 to and including December 19, 2016 to submit a motion to dismiss the Amended Complaint pursuant to FED. R. CIV. P. 12(b)(6).

Thank you for your consideration in this regard.

Respectfully submitted,

\s\

Cherie N. Brown
Assistant Corporation Counsel
Special Federal Litigation Division

Cc: **VIA ECF**
Montell Figgins, Esq.
Attorney for plaintiff